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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,569	04/21/2005	Bruno Teychene	C18:01668	3938
71897 7590 01/20/2011 KAUTH, POMEROY, PECK & BAILEY, LLP 2875 MICHELLE DRIVE SUITE 110 IRVINE, CA 92606				
EXAMINER BACHMAN, LINDSEY MICHELLE				
ART UNIT 3734		PAPER NUMBER		
NOTIFICATION DATE 01/20/2011		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO@KPPB.COM
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Office Action Summary**Application No.**

10/532,569

Applicant(s)

TEYCHENE, BRUNO

Examiner

LINDSEY BACHMAN

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-20, 23 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-20, 23 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is in response to Applicant's amendment filed 19 November 2010.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 13-20 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brem (US Patent 7,198,629) in view of Sanjurjo et al. (US Patent Application 2003/0172560).

Claim 24: Brem'629 teaches an ear tag that contains a male tag component (8, 4), a female tag component (1) and a sampling device (11). The female tag component has an inner surface, an outer surface and a hollow head having an opening at the inner surface (near 20 in Figure 1); the sampling device (11) contains a material and is fixed in a non-permanent manner to the female tag component (column 4, lines 6-14) and is disposed over the opening to the hollow head of the female component (Figures 2 and 3). The male tag component includes a punch (4) that is configured to penetrate through the animal's ear, the material of the sampling device and from the material of the sampling device through the opening of the hollow head (Figures 2 and 3). The material

of the sampling device is disposed transverse to the direction of penetration (Figures 2 and 3). The sampling device is separable from the female tag component (column 4, lines 4-14). The sampling device contains an attachment (flag portion 11) configured to fix the sampling device to one of the jaws of an applicator tool (column 6, lines 19-23).

Brem'629 does not teach that the sampling device is made of absorbable material.

Sanjurjo'560 teaches that it is known to provide a sampling device, such as the one taught by Brem'629 (as described in Brem'629, column 5, lines 18-21) with an absorbable material, in order to collect the blood released when the ear is punctured with the ear tag (Sanjurjo'560 paragraph [0011]). Sanjurjo'560 teaches that it is advantageous for providing the sampling device is reinforced material in order to make it easier to remove the absorbable material without tearing. Sanjurjo'560 teaches that it is advantageous to provide the plastic material with an absorbable material so that a blood sample from the animal can be collected (paragraph [0010]). Sanjurjo'560 teaches the use of a perforation to allow for easy removal after tagging (Figures 1-3). It would have been obvious to one of ordinary skill in the art to modify the device taught by Brem'629 with the absorbable material taught by Sanjurjo'560 in order to provide the advantages stated above.

Claim 13: The absorbent material taught by Brem'629 in view of Sanjurjo'560 is capable of being positioned posterior to a wall of the animal's ear.

Claim 14: The absorbent material by Brem'629 in view of Sanjurjo'560 is a sampling strip and is attached to the attachment (Brem'629 column 5, lines 18-21 and

Sanjurjo'560 paragraph [0011]). The sampling device is perpendicular to the direction of penetration of the punch.

Claim 15: The sampling device (11) of Brem'629 is connected at one of its ends transversely to an interior of the hollow head of the female tag component (Figure 2, 3) and by its other end to said attachment (flag portion 11).

Claim 16: The attachment (flag portion 11) is attached to the periphery of the hollow head of the female tag component (Brem'629 Figure 3, 4).

Claim 17: The attachment (flag portion 11) and sampling device (Brem'629 as modified with the absorbent material of Sanjurjo'560) include a slit (see Sanjurjo'560 Figures 1-3) over the hollow head of the female tag component.

Claim 18: The attachment (flag portion 11) is fixed to the periphery of the female tag component (Brem'629 Figures 3 and 4).

Claim 19: The attachment (flag portion 11) and sampling device (Brem'629 as modified with the absorbent material of Sanjurjo'560) include a slit (see Sanjurjo'560 Figures 1-3) over the hollow head of the female tag component.

Claim 20: The male tag component and female tag component (10 and 9, respectively) each contain a panel with identification symbols (Brem'629 Figure 1).

Claim 23: Sanjurjo'560 teaches that it is known to adhere to the absorbent material to the attachment (paragraph [0011]).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LINDSEY BACHMAN whose telephone number is (571)272-6208. The examiner can normally be reached on Monday to Thursday 7:30 am to 5 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. B./
Examiner, Art Unit 3734

/TODD E. MANAHAN/
Supervisory Patent Examiner, Art Unit 3776